IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

WP(C).No. 21538 of 2007(L)

CMA.17/2007 of PRL.SUB COURT,IRINJALAKUDA
OS.259/2007 of PRL.M.C.,IRINJALAKUDA
(IA 586/07)
.....

PETITIONER:

SONY JOHN,S/O.KANDAMKULATHI JOHN,
FALT NO.XIV/690,PATTATH COMPLEX,
NEAR ST.JOSEPH COLLEGE,MANAVALASSERI VILLAGE,
MUKUNDAPURAM TALUK.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

RESPONDENTS:
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1. BRD MOTORS LTD,KOKKALA,THRISSUR.

2. IRINJALAKUDA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,IRINJALAKUDA.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 21538 OF 2007

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Dated this the 13th day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside the orders Exts.P1 and P2 passed by the Principal Munsiff as well as Subordinate Judge, Irinjalakuda. The suit is one for a permanent prohibitory injunction to restrain the defendant therein from starting sales cum repairing workshop of autorikshaw alleging that the establishment of workshop will cause air, water and sound pollution. The trial court on a exhaustive consideration of the entire materials held that the plaintiff is not entitled to an injunction at that stage because the Court was not satisfied regarding the prima facie case of irreparable injury or balance of convenience.

2. The matter was taken up in appeal before the Subordinate Judge's Court and that Court also concurred with the view of the trial Court. One cannot at this stage hold that whether there will be real nuisance if the workshop starts. The Court below had also applied their mind how to

resolve the problem by insisting for safety measures. I do not at this stage want to go into the details because this is a matter which requires real scientific evidence for an ultimate decision. Therefore, I am not inclined to interfere with the orders passed by the Court below. But, it is made clear that the trial court shall dispose of the matter untrammeled by the observations made in this judgment or in order of the appellate judge. Being a case which is alleged to cause health hazard, I direct the Munsiff, Irinjalakuda to dispose of the matter as expeditiously as possible within a period of four months from today.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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